



United States
Department of
Agriculture

Consolidated
Farm Service
Agency

P.O. Box 2415
Washington, D.C.
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FmHA AN No. 3199 (1910-A)

September 1, 1995

TO: Acting State Directors, District Directors,
County Supervisors and Program Review Assistants
Rural Economic and Community Development

ATTN: Farmer Programs Chiefs

FROM: Lou Anne Kling *Lou Anne Kling 8-31-95*
Acting Deputy Administrator for
Farm Credit Programs

SUBJECT: Creditworthiness Determinations

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on the application of the creditworthiness provisions under FmHA Instruction 1910-A, section 1910.5.

COMPARISON WITH A PREVIOUS AN:

This AN supplements FmHA AN No. 3148 (1910-A).

IMPLEMENTATION RESPONSIBILITIES:

The Department of Agriculture Reorganization Act of 1994 repealed the statutory provisions mandating the Agency to specifically consider an applicant's (1) character, industry and ability to carry out the proposed operation, and (2) honesty in endeavoring to carry out obligations associated with the loan.

Creditworthiness, however, must still be considered under FmHA Instruction 1910-A, section 1910.5. If an applicant does not qualify under section 1910.5, the County Supervisor cannot take favorable action on the application and must provide appeal rights to the applicant. County Supervisors must be careful to avoid rejecting an applicant for reasons that do not constitute an indication of unacceptable credit history, which are listed under section 1910.5(c).

EXPIRATION DATE: September 30, 1996

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1910-A

In general, applications may not be denied for lack of creditworthiness if: (1) foreclosures, judgments, or delinquent payments occurred more than 3 years before the application and nothing similar has occurred recently; (2) delinquent payments are isolated incidents and do not contribute to a pattern of slow payment; (3) it can be satisfactorily demonstrated that the recent foreclosure, judgment or delinquent payment was of a temporary nature and was beyond the applicant's control; and (4) the delinquency resulted from refusal to make full payment because of defective goods or services. Bankruptcies must never be used as an indication of unacceptable credit history.

Nonexistence of credit history does not constitute unacceptable credit history. Neither does previous Agency debt settled under FmHA Instruction 1956-B nor debts restructured under FmHA Instruction 1951-S.

Examples of circumstances that are temporary and beyond an applicant's control are the loss of a job, the loss of benefits or other income, increased living expenses due to illness, death or natural disasters. However, non-payment of debts due to circumstances within an applicant's control, such as not paying debts while overspending on non-essential items, may be used as an indication of unacceptable credit history.

In addition, the creditworthiness of applicants who deliberately falsify information or who intentionally omit information material to the loan decision is highly questionable. Such individuals may also be subject to criminal prosecution and should be referred to OIG.

State office personnel who have questions may contact Kathleen Miller, Farm Credit Programs Loan Making Division at (202) 720-1643.